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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/562,130

12/23/2005

Gianfranco Bedetti

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05/15/2007

AKERMAN SENTERFITT

P.O. BOX 3188

WEST PALM BEACH, FL 33402-3188

EXAMINER

GRAVINI, STEPHEN MICHAEL

ART UNIT

PAPER NUMBER

3749

MAIL DATE

DELIVERY MODE

05/15/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/562,130

Applicant(s)

BEDETTI, GIANFRANCO

Examiner

Stephen Gravini

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 20051223.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Oath/Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:
It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

Applicant submitted an oath that recites material to examination (should recite material to patentability) and rule 1.56(a) (should recite rule 56).

Appropriate correction is required.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Mandeville (US 2,635,684). The claims are reasonably and broadly construed to be disclosed by Mandeville as comprising:

A fluid bed (F1) granulation process of a predetermined substance at controlled temperature, comprising the steps of removing the finished hot granules from said granulation fluid bed (F1), cooling down said granules in a cooling fluid bed (F2), continuously formed and supported by a respective flow of fluidification air, characterized in that at least part of the fluidification air coming out from said cooling fluid bed (F2) of the finished granules is fed into the granulation fluid bed (F1), characterized in that all of the fluidification air fed into the granulation bed (F1) comes from the cooling bed (F2), characterized in that substantially all of the fluidification air coming out from the cooling bed (F2) is used as fluidification air for said granulation bed (F1), and a fluid bed (F1) granulation process of a predetermined substance at controlled temperature, comprising a step of cooling finished hot granules in a respective cooling fluid bed (F2), characterized in that it uses one single flow of fluidification air to continuously form and support, in order, said cooling and granulation fluid beds (F1, F2), substantially arranged in series with respect to said single flow, characterized in that the finished granules of said substance are transferred substantially in a cascade to said cooling fluid bed (F1) as disclosed in column 1 line 30 through column 4 line 72.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mandeville in view of Uhlemann et al. (US 5,213,820). Mandeville discloses the claimed invention, as rejected above, except for the claimed apparatus for carrying out the fluid bed granulation process at controlled temperature of claim 4, comprising a self-supporting structure (2) substantially shaped like a container, defining a granulation space (A) inside of it, in which a shelf (14) is positioned, intended to support a granulation fluid bed (F1), characterized in that it comprises, in said space (A), a further base plate (4), positioned below and in a predetermined distanced relationship from said shelf (14), said base plate (4) being intended to support a respective cooling fluid bed (F2) of hot finished granules coming from said granulation bed (F1), said cooling bed (F2) being in fluid communication with said granulation bed (F1) through said shelf (14), provided perforated, grated or in any case permeable to gas flows, a downcomer (16), extending vertically in said space (A), suitable for the transfer of finished granules from said granulation fluid bed (F1) to said cooling fluid bed (F2) at said further base plate (4), means for feeding and distributing (22, 19) fluidification air in said space (A) below said further base plate (4), to form and maintain said cooling bed (F2). and said

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granulation bed (F1), which are arranged in series with respect to said flow, characterized in that said downcomer (16) comprises a vertical panel (15) , supported in said space (A) in a predetermined spaced relationship from a wall (8) of said container structure (2), defining with it an interspace (16), said panel (15) having a horizontal bottom side spaced from said further base plate (4), so as to define with it a passage (15a), suitable for putting said interspace (16) in communication with the space (A) above the aforementioned base plate (4), characterized in that said interspace (16) is in communication at the top with said space (A), through an opening (II) provided in it, , characterized in that said cooling fluid bed (F2) is in communication with the outside through a pocket (18) comprised between a wall (7) of said container structure (2) and a front panel (17) fixed to the base plate (4) supporting the cooling bed (F2) and preferably parallel to said top wall (7), and characterized in that said front panel 17 comprises a mobile bulkhead (21), adjustable in height. Uhlemann, another fluid bed apparatus process, discloses the recited features above at column 3 line 53 through column 4 line 28. It would have been obvious to add the recited features above to the teachings of Mandeville, as disclosed in Uhlemann, for the purpose of providing an efficient and cost effect means of cooling and processing granular materials in a fluid bed.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory

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obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-10 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-7 of copending Application No. 10/526,503. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been an obvious matter of design choice to add the currently claimed cooling feature to the copending application fluidification step since both applications perform the invention as claimed regardless of the recited cooling step.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 571 272 4875. The examiner can normally be reached on normal weekday business hours (east coast time).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Rinehart can be reached on 571 272 4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMG
May9, 2007

